

## Information on the U. S. Department of Labor Regulations on Overtime Status

September 1, 2004

The U. S. Department of Labor's regulations on the Fair Labor Standards Act were revised at the end of March 2004 and become effective August 23<sup>rd</sup>, 2004. The regulations provide information for determining if jobs are covered by the federal minimum wage and overtime provisions, or not.

These regulations serve to categorize employees in two ways:

1. Exempt
2. Non-exempt

**Non-Exempt** employees are covered, meaning non-exempt employees are compensated at time and one-half for hours worked in excess of 40 in a work week. The state of Missouri provides non-exempt employees with compensatory time.

**Exempt** employees are not provided with overtime at time and one-half. An employee may be exempt if their duties meet certain criteria described below.

*There are three areas of the regulations that determine if a job class is exempt or non-exempt:*

- **Salary Level:** The amount an employee is paid each pay period.
- **Salary Basis:** An employee must be paid on a salaried basis, meaning the amount the employee is paid each pay period is not subject to reduction in certain circumstances.
- **Job Duties:** There are 5 categories of job duties to determine if a job is exempt.

The Salary Level change means that an employee who is paid less than \$985.83 per pay period is a non-exempt employee. Currently, there is no exempt job class paid less than this amount in the Uniform Classification and Pay System. However, the rate of pay of an employee who works less than full-time must also exceed the salary level of \$985.83 in order for the employee to be exempt.

The Salary Basis means that exempt employees are paid the same amount each pay period. The state of Missouri and other public employers have more leeway in applying the salary basis to exempt employees than private employers. This means, generally, that exempt public employees can be docked for time not worked in certain circumstances, and the employer can retain their exempt status.

Job Duties consist of 5 categories: Executive, Administrative, Professional, Computer and Outside Sales. The definitions of these exemption categories are available at the Department of Labor's web site:

**The Department of Labor's web site providing information on the new regulations with presentations, fact sheets, and the full text of the regulations is:**

**<http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm>**

The Division of Personnel administers the Uniform Classification and Pay System (UCP) pay plan, and the overtime rules of the Personnel Advisory Board, both of which are impacted by the change to the federal regulations.

Currently, the Division of Personnel and state agencies are reviewing the UCP System job classes to determine if job classes currently identified as exempt, continue to meet the definition of the exemption. It is anticipated that some classes will change from exempt status to non-exempt status. It is possible that job classes will change from non-exempt to exempt status, though not likely. Any changes to the overtime designation for a job class in the UCP System pay plan will be approved by the Personnel Advisory Board before becoming official. The classes affected will then be communicated to the agencies.

The new regulations will require a change to the rules and regulations of the Personnel Advisory Board and Division of Personnel. Currently, under the salary basis test, employees designated as exempt can only be suspended for a full work week. This rule will be revised to comply with the new regulations that allow for the suspension of exempt employees for one or more full work days.

While there will be some changes as a result of the new regulations, overall the impact on state government employees are not as sweeping as some reports may lead you to believe.

In addition to reviewing the work being performed by employees, agencies may want to review job classifications to determine if the primary duties of the job are still accurately depicted in the description. Agencies may also want train managers on the new regulations and establish a complaint mechanism for corrective action, if needed.

The Division of Personnel will continue to serve as a resource on these changes for the agencies. Employees are welcome to contact their agency Personnel Officer, or the Division of Personnel, if they have any questions concerning the regulations.